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rates in each jurisdiction are subject to change as new taxes are adopted or old ones expire.

Gail Cole • Dec. 04, 2022

The world is too big, tax too complex, and attention spans too short for one report to cover everything going on in tax compliance today. That doesn't stop us from trying.

As in past years, Avalara has compiled it's list of key issues complicating tax compliance for businesses. The Avalara Tax Changes 2023 report, which will be published in January, includes non-income tax types, including sales and use tax because it affects so many industries: beverage alcohol, lodging, manufacturing, retail, and software. It also delves into communications tax, and excise tax in the energy and tobacco/vape sectors. Finally, it looks beyond U.S. borders to explore what's happening with tax in other countries — and what that means for cross-

The way specific products are taxed is also subject to change for a variety of reasons, including sales tax holidays. There were close to 50 sales tax holidays in 23 states (plus Puerto Rico) in 2022. Florida alone established about 10 new tax-free periods, some lasting less than a week, others lasting two years. Since some of Florida's 2022 sales tax holidays provided full exemptions for qualifying products and some exempted only a certain amount of the sales price (e.g., the first $300 of the sales price of paddleboards), compliance was a nightmare for affected retailers. And thanks to the rise of ecommerce and online sales tax requirements, tax-free weeks and weekends often affect out-of-state sellers.

Sales tax holidays aren't the only source of tax changes. For example, residential energy is exempt from local sales and use tax in Rockland County, New York, effective December 1, 2022 (it's already exempt from state sales tax). An exemption for children's diapers took effect in Indiana on September 1, 2022, and in New York on December 1, 2022[1] [2] ; diapers and feminine hygiene products are exempt from sales tax in Colorado and Iowa starting January 1, 2023. No wonder 48% of participants in a 2021 Avalara/Potentiate survey identified sales tax rate or rule errors as a top cause of audit penalties.

Whatever causes them and no matter how great the burden, rate changes are just the tip of the compliance iceberg. New tech developments tend to spark new tax policies that need to be digested and incorporated into business procedures.

New technology calls for new tax policies

Take cryptocurrency, non-fungible tokens (NFTs), and the metaverse. Your business may not have anything to do with these today, but there's a good chance you'll engage with at least one of them tomorrow. Some experts predict everyone will be using the metaverse in some form or another within five years.

Of course, you never know. There's a lot of enthusiasm around crypto, NFTs, and the

departments of revenue in Pennsylvania, Puerto Rico, Washington, and Wisconsin addressed how sales tax applies to NFT transactions.

Avalara Senior Director of North America Tax Content David Lingerfelt believes these technologies could trigger the next Wayfair moment in indirect tax. He's referring to South Dakota v. Wayfair, Inc. (June 21, 2018), the U.S. Supreme Court decision that freed states to tax out-of-state sales and unleashed an avalanche of lawsuits, legislation, and new tax requirements for businesses.

Meanwhile, the original Wayfair moment is still happening. States continue to refine their remote sales tax laws and businesses still grapple with the resulting compliance challenges.

Businesses and states still adapting to Wayfair

Prior to the Wayfair decision, states were largely limited to taxing businesses with a physical presence in the state. Physical presence still establishes a sales tax obligation, but post Wayfair, states can also base a sales tax obligation on a remote seller's economic activity in the state (i.e., economic nexus).

Hawaii, Maine, and Vermont began enforcing economic nexus laws on July 1, 2018, almost immediately after the court issued its ruling. Come January 1, 2023, when Missouri finally jumps on the remote sales tax wagon, every state with a general sales tax will have an economic nexus law as well as a marketplace law that makes marketplace facilitators responsible for the tax due on third-party sales.

If anything, Wayfair's impact seems to be growing over time. In a May 2022 survey conducted by NetReflector/Potentiate for Avalara, 83% of respondents said Wayfair impacted how their company conducts business. That was the highest percentage over the six survey periods (December 2019, January 2020, March 2020, December

Businesses that manage compliance manually are having an especially hard time.

Sales and use tax compliance costs

Small businesses (between 20 and 499 employees) that manage compliance activities manually estimate spending $1,740 per month identifying state sales tax obligations and filing requirements. On top of that, they generally spend:

- $3,493 per month on tax rates and calculations
- $3,409 per month on exemption certificate management
- $4,894 per month on tax returns

That doesn't include time or money spent handling audits, and 14% of all respondents claimed to have had a sales tax audit within the past five years.

Audits happen

The Inflation Reduction Act of 2022 provides nearly $80 billion in additional funding to the Internal Revenue Service and related agencies "to bolster taxpayer services and enforcement of the tax code, among other purposes." More than $45 billion is earmarked for tax enforcement activities like hiring more enforcement agents, providing legal support, and investing in investigative technology.

While the IRS doesn't oversee state-level taxes like sales and use tax, there could be a trickle-down effect. As the Missouri Department of Revenue explains, "A sales tax auditor will examine your federal income tax return to reconcile the gross sales between the federal return, the sales tax return, and the sales recorded in your accounting records." This is common practice in all states.

States take sales tax audits seriously because sales and use tax revenue accounts for

survey of 400 U.S.-based senior business decision-makers in logistics and supply chain strategy:

- 52% of respondents think their supply chain still needs much improvement
- 49% expect supply chain issues to last through the end of 2022
- One in three believes supply chain issues will last until the end of summer 2023

Respondents cited geopolitical unrest as the root of many supply chain disruptions, along with the lack of raw materials and rising fuel and energy costs. To overcome supply chain challenges, survey participants from all industries said they plan to:

- Adopt new technology to overcome challenges (74%)
- Implement new contingency measures (67%)
- Prioritize U.S.-based supply chain solutions (60%)
- Find new environmentally friendly supply chain solutions (58%)

Any or all of these actions could change or trigger new sales and use tax obligations for businesses.

The list of changes goes on and on

This blog post gives you just a taste of what you'll find in the Avalara 2023 Tax Changes report. You'll have to read the full report to discover more about:

- Ad-based streaming services
- Colorado's groundbreaking retail delivery fee
- Expanding electronic invoicing requirements
- Funds for the Superfund
- Local tax battles in Texas
- Restrictions on flavored vaping products

- Tied-house laws for beverage alcohol businesses

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